

REMARKS

The Applicant respectfully requests reconsideration in view of the following remarks. No claims have been added or cancelled. Claims 7 and 21 have been amended to fix typographical errors. Accordingly, claims 1-30 remain pending in the application.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 15-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,302,609 issued to Matena et al. (hereinafter "Matena"). Applicant respectfully disagrees with the above claim rejections for the following reasons.

To anticipate a claim, a single reference must disclose each element of that claim. Thus, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Also, "[t]he elements must be arranged as required by the claim." *See In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) and MPEP § 2131.

Claim 15 includes "a controller to transfer packets between the non-Java-based server nodes and the Java-based server nodes." Applicant believes that Matena does not teach this element of the claim. Examiner cites Matena (at Fig. 1, Ref. # 102), to teach this element. However, Applicant has been unable to discern any aspect of Fig. 1 or the associated description at column 9, lines 46-67 through column 10, lines 1-9 that discloses transferring packets between non-Java based nodes and Java based nodes. The portions of Matena cited by the Examiner do not explicitly disclose communication flows between components in the execution control system. Fig. 1 and the corresponding description disclose several components in an execution control system and a set of associated applications. (*See Matena* at column 9, 48-51). However, there is no indication from these references that packets are being transferred between a non-Java based server node and a Java based server node. Accordingly, the Examiner has failed to establish a *prima facie* case that Matena discloses "a controller to transfer packets between the non-Java-based server nodes and the Java-based server nodes." Moreover, the Applicant has been unable to find any other sections of Matena that disclose these elements of claim 15. Thus, Matena fails to disclose each element of this claim, and therefore cannot form the basis of a rejection under 35 U.S.C. § 102. If Examiner maintains this rejection, Applicant requests that Examiner clarify his position as to the manner in which Matena discloses this element of claim

15. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim.

Claim 21 includes elements analogous to those of claim 15, such as “transferring packets between the non-Java-based server nodes and the Java-based server nodes.” For at least the reason discussed above in claim 15, Applicant submits that Matena does not teach this element of claim 21. Thus, the reference does not teach each element of this claim. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim.

Claims 16-20 and 22-24 depend from independent claims 15 and 21, respectively, and incorporate the limitations thereof. Thus, at least for the reasons discussed above in regard to the independent claims 15 and 21, Matena does not teach each element of the dependent claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

II. Claims Rejected Under 35 U.S.C. § 103

Claims 1-6 and 25-30 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 7,302,609 issued to Matena et al. (hereinafter “Matena”) in view of U.S. Patent Application Publication No. 2005/0108395 by Brey et al. (hereinafter “Brey”). Claims 7-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Matena in view of U.S. Patent Application Publication No. 2003/0037148 by Pedersen et al. (hereinafter “Pedersen”). Applicant respectfully disagrees with the above claim rejections for the following reasons.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

Claim 1 includes “establishing communication between a plurality of non-Java-based server nodes of a first instance and a plurality of Java-based server nodes of a second instance via an intermediate server.” (emphasis added). The Examiner cites Matena to teach this element

of claim 1. The Examiner argues that Matena discloses “computer systems including multiple nodes....wherein the multiple nodes are connected in a communication system via an intermediate server.” (Office Action at page 2). The Examiner further states that, “[t]hese clustered servers are designed to allow applications to execute on multiple identically-configured J2EE server processes.” (*Id.*). However, the Examiner’s assertions fail to establish that Matena discloses the recited elements of claim 1. Specifically, the Abstract and column 3, line 11 of Matena cited by the Examiner fails to explicitly disclose “communication between a plurality of non-Java-based server....and a plurality of Java-based server nodes.” Moreover, the Applicant has been unable to find any discussion of communications between Java and non-Java nodes in other sections of Matena that disclose these elements of claim 1. Furthermore, Examiner has not provided any argument regarding Brey’s coverage of these limitations. Additionally, after reviewing Brey the Applicant has been unable to locate any sections therein which cure the deficiencies of Matena. Therefore, the combination of Brey and Matena fails to teach or suggest each limitation of independent claim 1. If the Examiner maintains this rejection then, the Applicant requests that the Examiner clarify the manner in which Matena discloses this element of claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 for being unpatentable over the combination of Brey and Matena.

Claim 7 include elements analogous to those of claim 1. The Examiner argued that these limitations are taught by Matena. For at least the reason discussed above in the Applicant’s argument over the 35 U.S.C. § 103(a) rejection of claim 1, Applicant submits that Matena does not disclose these elements of claim 7. Furthermore, Examiner has not provided any argument regarding Pedersen’s coverage of these limitations. Moreover, after reviewing Pedersen the Applicant has been unable to locate any sections therein which cure the deficiencies of Matena. Thus, the combination of Matena and Pedersen does not teach or suggest each element of claim 7. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim.

Claim 25 includes elements similar to those of claim 1. For at least the reason discussed above in claim 1, Applicant submits that the combination of Matena and Brey does not teach these elements of claim 25. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim.

Claims 2-6, 8-14 and 26-30 depend from independent claims 1, 7 and 25, respectively, and incorporate the limitations thereof. Thus, at least for the reasons discussed above in regard

to the independent claims 2-6, 8-14 and 26-30, the combination of Matena and Brey does not disclose each element of the dependent claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

Claims 8-14 depend from independent claim 7 and incorporate the limitations thereof. Thus, at least for the reasons discussed above in regard to the independent claim 7, the combination of Matena and Pedersen does not disclose each element of the dependent claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-30, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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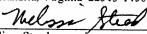
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Melissa Stead March 27, 2008